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WASHINGTON, D.C.

Annual
Report
of the

FEDERAL
TRADE
COMMISSION

For the Fiscal Year Ended

September 30, 1985

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JAMES C. MILLER III, Chairman
PATRICIA P. BAILEY, Commissioner
GEORGE W. DOUGLAS, Commissioner
TERRY CALVANI, Commissioner
MARY L. AZCUENAGA, Commissioner

EMILY H. ROCK, Secretary

EXECUTIVE OFFICES OF THE FEDERAL TRADE COMMISSION

Pennsylvania Avenue at Sixth Street, N.W.
Washington, D.C. 20580

Regional Offices

Atlanta, Georgia
Room 1000
1718 Peachtree Street, N.W.

Denver, Colorado
Suite 2900

LETTER OF TRANSMITTAL

May 8, 1987

The Honorable George Bush
President of the Senate
United States Senate
Washington, D.C. 20510

The Honorable Jim Wright
The Speaker of the House of Representatives
House of Representatives
Washington, D.C. 20515

Dear Mr. President and Mr. Speaker:

It is a pleasure to transmit the seventy-first Annual Report of the Federal Trade Commission covering its accomplishments during the fiscal year ended September 30, 1985.

By direction of the Commission.

DANIEL OLIVER
Chairman

FEDERAL TRADE COMMISSION
1985 ANNUAL REPORT

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SUMMARY

The Commission's major focus in Fiscal Year 1985 was on its efforts to be efficient and effective in promoting the welfare of consumers. Continuing initiatives included employing careful case selection, integrating economic expertise into enforcement proceedings, and educating consumers and business. Efforts in pursuing these goals and fulfilling statutory responsibilities included:

TARGETING ENFORCEMENT INITIATIVES

The Commission continued its strategy of focusing on remedies for specific market failures, rather than pursuing broad regulatory proceedings. Antitrust resources were devoted to merger evaluation and enforcement initiatives involving anticompetitive business conduct such as agreements by competitors to fix prices, restrict output, divide markets, or limit entry. Consumer protection resources were directed toward the areas of deceptive practices, and investment fraud. In addition to its administrative complaints, consent agreements, and civil penalty actions, the Commission obtained injunctions to prohibit illegal conduct and also approved six consumer redress orders totaling more than seven and a half million dollars.

INTEGRATION OF ECONOMIC CONSIDERATIONS

A careful process of case selection was employed, using early consideration of economic issues in the Commission's law enforcement program. The integration of economic analysis into antitrust and consumer protection enforcement efforts allowed the Commission to focus on the injury resulting from different practices and to weigh whether its initiatives resulted in a net benefit to consumers.

MANAGING RULEMAKING INITIATIVES

The FTC also continued to use its resources in its rulemaking proceedings carefully. This involved analysis of whether individual cases or industry-wide enforcement were the most appropriate remedies for conduct harmful to consumers. During the year the Commission gave final approval to the Used Car Rule. Other proceedings, such as the Hearing Aid Rule, were terminated because they lacked legal basis or the practices were not prevalent.

WORKING WITH CONSUMERS AND BUSINESS

The Commission continued to meet and work with consumer and business groups to educate them on their rights and responsibilities. One example was a campaign to implement the Used Car Rule by informing business groups about its provisions and assisting to ensure compliance as the Rule became effective. Similarly, three new consumer publications were prepared and circulated through joint efforts with associations and business groups. These efforts, and other similar ones, resulted in approximately one million consumer and business publications being distributed during Fiscal Year 1985.

MERGERS

During fiscal year 1985, 1604 transactions were filed with the Commission pursuant to the Hart-Scott-Rodino Premerger Notification Program, an increase of approximately 20 percent over fiscal year 1984. The Commission issued requests for additional information relating to 32 of those transactions. The Commission has the authority to seek to enjoin mergers preliminarily under Section 13(b) of the FTC Act when the Commission deems such action appropriate to prevent violations of the antitrust laws. In fiscal year 1985, the Commission obtained an injunction against the proposed acquisition of PolyGram Records Inc. by Warner Communications Inc. and authorized Commission staff to seek injunction actions in three other matters: the proposed acquisition by N.L. Industries, Inc. of the titanium dioxide assets of American Cyanamid Company; Baker International's proposed acquisition of the underground mining equipment assets of PACCAR Inc.; and SmithKline Corporation's proposed acquisition of American Optical Corporation. AG04 0055 DC 1100

ENERGY AND NATURAL RESOURCES

The Commission continued its active involvement in maintaining competition in both petroleum and non-petroleum energy industries. During this fiscal year, several investigations were initiated or continued. In addition, the Commission authorized the Bureaus of Competition and Economics to respond to a number of Congressional requests for analysis and advice on energy competition issues.

The Commission also reviewed several significant proposed energy acquisitions under its statutory responsibilities pursuant to the Hart-Scott-Rodino amendments to the Clayton Antitrust Act, 15 U.S.C. 18A. In one of these investigations, InterNorth/Houston Natural Gas, alleged likely anticompetitive effects in certain natural gas pipeline markets led to a Commission consent order requiring divestiture of certain assets. In another, MidCon/United Resources, allegations of overlaps in two separate gas pipeline markets led to a Commission administrative complaint alleging a violation of Section 7. One of the counts of the complaint was removed from adjudication for entry of a consent order for divestiture of gas pipeline assets. The remaining portion of the complaint has been assigned to an Administrative Law Judge for trial. In addition, the Texaco/Getty and Chevron/Gulf divestitures, were completed within the deadlines imposed by the Commission.

The Commission continued its program of examining the regulatory activities of other federal and state agencies in energy markets, and examining proposed federal and state legislation in such markets. The Commission offered competitive impact advice when requested, and intervened in regulatory proceedings, when it believed necessary or appropriate, to advocate market solutions as superior to command and control regulatory activities.

Finally, the Commission continued to discharge its responsibilities under the Energy Policy and Conservation Act with regard to the International Energy Program by monitoring industry meetings, providing antitrust advice to other agencies of the United States Government, and preparing and issuing reports on the competitive impact of the International Energy Program to the President and Congress. The Commission also continued to fulfill its obligations under the Deep Seabed Hard Mineral Resources Act, the National Energy Conservation Policy Act and the Power Plant and Industrial Fuel Use Act. The Commission also conducted several investigations of alleged predatory and other anticompetitive behavior in various resource industries and examined competitive issues involving utility participation in non-regulated markets. In an investigation of the lithium industry, one of the two firms involved has agreed to enter into a consent decree. The Commission completed a major investigation of a merger of two gas and electric utilities with overlapping service areas.

HEALTH CARE

During fiscal year 1985 the Commission continued its efforts to promote competition in the health care sector of our economy. The Commission issued a complaint charging a conspiracy by competing physicians to extract higher prices from third-party payors by threatening to, and actually, jointly boycotting the plans. The Commission also issued several consent orders settling charges of anticompetitive activity. The Commission entered a final consent order against a state optometric association, requiring it to cease restricting certain forms of commercial practices by optometrists such as affiliating with franchise eye wear retail centers. The Commission issued a final consent order preventing a hospital's staff from threatening to boycott the hospital to prevent its operation of an urgent care center. It also entered a final consent order requiring divestitures to remedy the alleged anticompetitive effects of an acquisition of hospitals in Texas and Virginia. The Commission and its staff also have pursued ongoing investigations involving allegations of boycotts, restraints on truthful advertising by health care professionals, anticompetitive mergers, and other anticompetitive conduct.

In addition to traditional law enforcement activity, the Commission has provided advice and informal guidance to health care professionals seeking to ensure that their proposed activities, including new forms of health care marketing and delivery and dispute resolution services, conform to requirements of the antitrust laws. The Commission also filed an amicus brief in the Seventh Circuit urging the court not to apply the state action exemption to anticompetitive conduct that occurs in connection with hospital privilege decisions.

TRANSPORTATION

During fiscal year 1985, the Commission made substantial progress on a program aimed at eliminating suspected anticompetitive municipal regulation of taxicabs unauthorized by state law through litigation and advocacy. A complaint issued against the City of Minneapolis was withdrawn after the City revised its ordinance to permit more competition, and one against New Orleans was withdrawn after the state authorized the conduct by a new law. Staff testimony advocating more procompetitive regulation was given in Colorado, Anchorage, Alaska, Seattle, Washington, and the District of Columbia in response to invitations. Numerous requests for the Commission's economic report on taxicabs show that the program is having a more subtle influence as well. In response to the Supreme Court's *Southern Motor Carriers* decision, the First Circuit remanded the *Massachusetts Movers* decision to the Commission for further findings. In addition,

were withdrawn. Adjudication of others continued. The Commission issued a complaint against U-Haul involving sham litigation allegations.

HORIZONTAL RESTRAINTS

During fiscal year 1985, the Commission continued to devote substantial resources to eliminating anticompetitive agreements among competitors, especially among professionals. The Commission has focused its efforts on state boards" and private professional and trade associations" regulations that may have the purpose, or the effect, of fixing or stabilizing prices or reducing output, or causing substantial injury to consumers. In implementing its program against anticompetitive horizontal restraints, the Commission has used various means: intervention, advocacy, cooperative efforts resulting in voluntary compliance, consent orders, and litigation. This year, the Commission has issued administrative complaints against trade associations or other groups of competitors in three cases: National Decorating Products Association involved allegations that NDPA and certain of its local affiliates conspired to restrain competition in the sale of wallpaper and other "wall coverings"; Ticor Insurance involved several title insurance companies" alleged conspiracies to fix prices on title search and examination services; Detroit Motor Vehicle Dealers. involved allegations that competing motor vehicle dealers in Detroit conspired to close their businesses during certain week nights and weekends.

The Commission also completed litigation in several other alleged horizontal restraint cases initiated in the previous fiscal year. The Commission accepted consent agreements in five cases: National Association of Temporary Services, involved rules restricting members from soliciting competitors' employees or customers and from sending employees to the site of a labor dispute; National Customs Brokers and Forwarders Association, involved rules restricting its members from making autonomous pricing decisions; Orange County Board of Realtors and Multiple Listing Service of the Greater Michigan Area Inc., involved restrictions on the publishing of members" exclusive agency listings; and Decorating Products Association of Central Florida, a case involving alleged horizontal restraints in the wall covering industry. Additionally, without resort to litigation or order, the Commission acted to eliminate a number of other restrictions on commercial activities of state-licensed professionals through cooperation with state boards and state attorneys general.

INTERNATIONAL ANTITRUST

During fiscal year 1985, the international antitrust program was active in a total of 25 full phase and initial phase investigations involving such matters as: possible horizontal price fixing in imported motorcycle batteries,

imported sausage casing, fine art, wallcoverings, and imported radial tires; possible attempted monopolization of the markets for potassium permanganate, indomethacin, and melamine; and potential anticompetitive restraints resulting from transnational joint

DISTRIBUTIONAL RESTRAINTS

The Commission's decision in *Boise Cascade Corp.*, involving the alleged receipt of discriminatory prices by a distributor of office supplies, is pending. The Commission continued a number of investigations involving possible distributional restraints.

FOOD

During fiscal year 1985, the Commission concluded the first stage of its retail pricing survey, including investigational hearings in five major cities across the United States. The study focuses upon the impact of new store formats on price competition in the retail grocery industry. The Commission is now evaluating the results of the investigational hearings and supplemental industry data. In addition, several investigations of possible anticompetitive acquisitions in the manufacturing and processing segments of the industry were initiated.

The Commission also continued to monitor practices by retailers that may inhibit the free flow of comparative price information to consumers, practices which have resulted in the Commission issuing complaints in the past. The Commission continued to investigate acquisitions in the soft drink industry for possible anticompetitive effects. The Commission also initiated several investigations of alleged anticompetitive practices, including abuse of governmental process designed to injure competition and collusion among competitors. The program also completed a number of other investigations that did not disclose sufficient evidence of law violations.

EVALUATION, PLANNING AND DEVELOPMENT

During fiscal year 1985, this program included several innovative projects. The Commission consistently filed several amicus briefs in an expanded program designed to encourage and foster competition wherever the Commission's expertise might be persuasive. Briefs were filed in federal district courts and in the Supreme Court.

Work also continued on a variety of ongoing responsibilities, including evaluation of current Bureau investigations, management of the Bureau's efforts in competition advocacy, providing guidance to the public regarding Commission policies, research and analysis of significant antitrust issues, and providing management information on Maintaining Competition Mission activities.

numerous acquisitions in the urinary catheter market without prior Commission approval, and against Bell Resources Ltd. and Weeks Petroleum Ltd. for acquiring stock in Asarco Inc. without filing the premerger notification and observing the statutory waiting period required by Section 7A of the Clayton Act and the premerger rules. The staff also made recommendations to the Commission concerning numerous petitions to modify orders and applications for approval of divestitures and acquisitions, including the Commission-ordered divestitures in Texaco/Getty and Chevron/Gulf. In addition, the staff advised Bureau attorneys on the effectiveness of proposed remedies, and conducted investigations of possible order violations and possible violations of the premerger reporting statute and rules.

CONSUMER PROTECTION MISSION

The Consumer Protection Mission is charged with the elimination of unfair or deceptive acts or practices in or affecting commerce, with emphasis on those practices that may unreasonably restrict or inhibit the free exercise of consumer choice. The Mission emphasizes market-oriented remedies for law violations. Its activities can be grouped into five program areas: Advertising Practices; Marketing Practices; Credit Practices;

increase gas mileage and reduce fuel costs by 20 to 25 percent without competent and reliable evidence. Misrepresentations of test results, or of the profits or marketing assistance provided to distributors, also is prohibited under the agreement.

The Commission issued two administrative complaints in the advertising practices area. Buckingham Productions, Inc. was charged with making false, misleading, and unsubstantiated advertising claims for its "Rotation Diet" and several other related weight reduction plans. Removatron International Corporation, the maker of the Removatron brand hair removal device, was charged with deceptively advertising that the product can permanently remove hair and falsely claiming the device has been approved by the Federal Communications Commission.

Several matters in adjudication were resolved with consent agreements that were accepted by the Commission. Rush-Hampton Industries, Inc. and Associated Mills, Inc. agreed not to make performance or efficacy claims about indoor air cleaning devices without competent and reliable substantiation. A final consent order prohibits the P. Leiner Nutritional Products Corp. from claiming that its nutritional supplement "Octacol 4" can improve physical fitness or athletic performance unless it has competent and reliable substantiation. The company also agreed not to misrepresent test results in its advertisements. An agreement settling charges related to the Buckingham Productions, Inc. complaint prohibits Dr. Barry Bricklin, an expert in the psychology of dieting, from providing false and misleading endorsements for diet plans. In a consent agreement accepted and placed on the public record, Weider Health and Fitness, Inc. and Joseph Weider agreed to pay a minimum of \$400,000 in refunds and research grants to settle charges they misrepresented two nutrient supplements. Weider advertised and sold the supplements as substitutes for anabolic steroids, used by bodybuilders and weight trainers to increase muscle mass and strength.

In a suit filed in federal district court, the Commission sought and obtained an asset freeze against all but one of the defendants in the case against Phillippe

The Commission issued a final order upholding an Administrative Law Judge's

tour Organization, Inc., two sellers of electric adjustable beds, agreed to honor their warranties fully and promptly, and to tell consumers, in advance, that they are responsible for returning the bed or any part of it at their own expense in order to obtain warranty service. In a final consent agreement Ward Corporation, a major Washington, D.C. area home builder, agreed to make repairs or pay homeowners for valid new-home construction defects covered under the written warranty and costing \$500 or more to fix. Ward also agreed to set up an arbitration mechanism for future home buyers, and not to misrepresent its warranty obligations.

Several consent agreements were also obtained in the deceptive sales area. Sentronic Controls Corporation and Wein Products, Inc. agreed not to claim that ultrasonic pest control devices eliminate insects and rodents, or to make any other efficacy or performance claims, without competent and reliable scientific substantiation. Porter Realty, a real-estate brokerage company, and Irvin Porter, an officer of the company, agreed not to misrepresent the value and potential use of land, settling charges as to those respondents in the Commission's complaint against Southwest Sunsites. In a consent subject to final approval, Larry Brog, former chief executive of Meadow Fresh Farms, Inc., a nationwide company that marketed Meadow Fresh White, a dry milk substitute, agreed to have scientific evidence for any future claims he makes about the product or other food products.

The Commission also issued an administrative complaint against Roy Brog, President of Meadow Fresh Farms, Inc. Roy Brog is charged with making unsubstantiated claims about the shelf life of Meadow Fresh White and its ability to reduce cardiovascular disease.

In the product information area, a final consent agreement was obtained with the manufacturer and seller of "Sky Genie Descent Systems," safety devices used by individuals working on or descending from tall buildings or other heights. Descent Control, Inc. agreed to substantiate its advertising claims, revise its operating instructions, and inform users of previously undisclosed safety information.

The Commission obtained a settlement of contempt charges from Theodore Weiswasser for violating a 1981 preliminary injunction issued in the Paradise Palms Vacation Club proceeding. Weiswasser was ordered to pay \$250,000 into a consumer restitution fund for making misrepresentations in the sale of timesharing in a vacation resort. Three principals of Kitco of Nevada, Inc., Duane F. Snelling, John E. Farkas, and Craig A. Jesinoski, were permanently enjoined from misrepresenting business opportunities and ordered to pay \$531,949 in restitution to purchasers of their "work at home" business opportunity.

The Commission filed a complaint in federal district court seeking a permanent injunction action and consumer redress against three individuals, Rebecca L. Kelley, Debbie Tanner, and Bryan M. Hall, for allegedly making false claims that they could help couples adopt children from Mexico.

The complaint charges that they misrepresented the status of "pending" adoptions and the procedures they would follow, such as placing fees in escrow and working through a Mexican attorney. The Commission also filed a complaint in federal district court seeking preliminary and permanent injunctive relief and consumer redress against four individuals for alleged violations of the FTC Act in the sale of business opportunities. Michael Kaplan, Jerome Kaplan, Robert MacKenzie Davis, Jr., and Richard Wiley have employed a series of corporations including Certified Security Systems, to sell distributorships for high-tech products such as energy savings devices and home burglar alarms systems.

An Administrative Law Judge ruled that Figgie International, Inc. made false performance claims for its "Vanguard" heat detectors which, contrary to its ads, did not give sufficient warning to enable occupants to escape residential fires safely. In the Orkin Exterminating Co., Inc. proceeding, an Administrative Law Judge ruled that the company must roll back annual renewal fees for customers whose original termite-control agreements called for fixed annual fees. Both decisions are on appeal to the Commission.

The Commission issued a final order reversing a 1982 ruling of an Administrative Law Judge who had dismissed the charges against Southwest Sunsites, Inc. The Commission ordered the company to stop misrepresenting the value and potential use of its land. In another final order, the Commission ruled that International Harvester Company had failed to adequately disclose to consumers that its gasoline-powered tractors were subject to a safety hazard known as "fuel geysering" even though the company knew of the potential danger. The Commission found that the failure to disclose was an unfair practice that violated the law.

The Commission approved the final Used Car Rule requiring dealers to make specified disclosures, including who must pay for repairs after a sale, in a Buyers Guide placed in the side window of each used car offered for sale.

A Notice of Proposed Rulemaking was published by the Commission proposing modifications to the Pre-Sale Availability of Written Warranty Terms Rule. The current rule requires retailers to make warranty texts available to customers prior to purchase using one of four specified methods. The proposed amendment would reduce the costs of complying with the Rule by providing retailers with a choice of displaying the warranty text near the product or making it readily available to any customer upon request. In another warranty-related matter, the Commission announced final revisions to its Guides Against Deceptive Advertising of Guarantees. The guides were revised to simplify the advertising of warranty coverages.

The Commission voted to terminate the Hearing Aid rulemaking proceeding after considering evidence that the overwhelming majority of hearing aid buyers are satisfied with their purchases. According to a survey submitted with the staff recommendation, most hearing aid sellers are offering buyers trial periods of warranties to deal with problems that might occur, as would have been required by the rule.

The Ford Motor Company's Consumer Appeals Board and the Residential Warranty Corporation were granted two-year limited exemptions to the Commission's Informal Dispute Settlement Procedures Rule. These exemptions allow the companies

annual percentage rate in any of its credit advertisements that state an interest rate, and comply with all requirements of the TILA. The Commission took this action as part of its real estate credit advertising project designed to increase compliance with credit advertising laws.

Two consumer loan companies agreed to civil penalty consent decrees to settle charges that they discriminated against elderly

GM paid 9,529 consumers in five geographic areas more than \$3.3 million, with the average consumer complaint being resolved in 40 days. This data represents a sample of only five of 130 areas where the program is operating and covers reimbursements made for only three specific types of problems.

As part of its review of the Octane Rule under the Regulatory Flexibility Act, the Commission solicited comments on the economic impact of the requirement that retailers post octane ratings on gasoline pumps. The review of the Home Insulation (R-Value) Rule under this Act was concluded with no modifications to the rule required. The Regulatory Flexibility Act requires the Commission to conduct a periodic review of its rules to determine whether they have a significant economic impact on small businesses.

The Commission has adopted final regulations implementing amendments to the Textile Fibers Products Identification Act and the Wool Products Labeling Act, to reflect the requirements of new legislation governing country-of-origin labeling. All textile and wool products covered by these regulations will now be required to have labels to help consumers identify the country of origin of products at the time of purchase.

The Commission voted to begin a rulemaking proceeding to amend the rule on Retail Food Store Advertising and Marketing Practices. The proposed amendments would allow grocers to comply with the rule by offering rain checks or substitutes of comparable value when they run out of advertised items. Grocers also would be able to advertise special purchases or other items that are available only in limited quantities, if they clearly disclose the fact to shoppers.

Final staff compliance guidelines were published to help funeral providers comply with the Funeral Rule. Final staff guidelines to aid states in submitting exemption petitions from the rule were also published.

The Commission issued an enforcement protocol for the Franchise Rule, outlining some of the factors it will consider in deciding whether to initiate law enforcement actions for violations of the rule.

Several suits brought by the Commission involved violations of the Franchise Rule. A federal court ordered Royco Automobile Parts, Inc. and its president, Robert Sowerby, to pay \$567,000 in consumer redress and \$400,000 in civil penalties for allegedly misrepresenting facts involving distributorships for the sale of automotive tune-up parts. According to the Commission, consumers who invested in Royco franchises lost an average of \$14,000 each - some more than \$50,000 - because of the company's false statements. Federal Energy Systems and one of its officers were ordered to pay more than \$3 million in consumer redress and over \$1.6 million in civil penalties to settle charges that the company violated the rule's disclosure requirements and made false and deceptive claims about its franchises. The company sells franchises for the sale and installation of equipment that automatically controls the heating and air conditioning of commercial buildings. Enamelcraft, Inc. agreed to pay a \$15,000 civil penalty for

allegedly misrepresenting the services and merchandise it offered. The Commission filed a complaint against Tuff-Tire Industries, Inc., charging the company with misrepresenting the effectiveness of its "Mr. Tuff-Tire" automotive tire sealant and the profitability of its franchises. The Commission also filed suit against Control Technology, Inc. for allegedly making misrepresentations concerning its franchises for energy-management systems.

Civil penalties were ordered in three suits involving alleged violations of the Mail Order Rule. The two officers of Me-Books Publishing Company, Jerry Klein and James Maher, agreed to pay \$20,000 in civil penalties, and JS&A Group, Inc. and its president, Joseph Sugarman, agreed to a \$115,000 civil penalty consent judgment. Two mail order marketers, Norman Chanes and Monroe Caine, agreed to pay \$175,000 each in civil penalties and consumer redress to settle charges they repeatedly violated the rule and misrepresented their merchandise. The marketers allegedly controlled five mail order companies, including Encore House, Inc. The Commission filed a complaint in federal district court charging Del Monte Corporation with violations of the rule in the sale of its "Country Yumkin Dolls." The company is charged with failing to ship merchandise in a timely manner and failing to meet the notification provisions of the rule.

The Commission modified an order against Grolier, Inc. to change the wording and presentation required in advertisements and sales material, and the timing of required disclosures to prospective employees. A 1982 consent order against American Motors Corp. and Jeep Corp. requiring safety-warning stickers on Jeep CJ utility vehicles was set aside. The National Highway Transportation Safety Administration now requires similar warning stickers on all utility vehicles. Brooks-Rent-A-Car was ordered to pay civil penalties for violating a 1973 Commission cease and desist order.

scope of permissible advertising by optometrists. The Commission staff also addressed regulatory changes that have been proposed by the Virginia Boards of Dentistry, Medicine, Optometry, and Veterinary Medicine involving restraints on nondeceptive advertising and restrictions on commercial practice. A report was presented to the Legislative Council of Delaware concerning proposed legislation that would affect the ability of optometrists to use trade names, engage in direct solicitation, and operate as a corporate practice.

Commission comments were filed with the Federal Reserve Board on its proposed amendments to Regulation Z, t o v i d e m o c

Certain studies undertaken by the Bureau also s

economists participated in two proceedings at the International Trade Commission seeking limits on imports of specific products - potassium permanganate and shoes.

Work nearly was completed on a study of state Blue Sky regulation of securities and the role of building codes in innovation.

LINE OF BUSINESS

When the Commission terminated data collection in 1983, it decided to concentrate limited resources upon research using Line of Business data that already exists. During fiscal 1985, the Annual Line of Business Report for 1977, which contains industry financial aggregates and which is the last year for which data were collected, was published. Numerous research studies are being prepared by the Bureau for the examination of structural explanations of market performance and a study of the sources of scope economies in large manufacturing firms.

reduce administrative costs. The program uses Diner's Club Charge Cards and GSA approved travel agents to handle reservations and ensure the lowest airfare costs. The conversion of automated systems to in-house computers was accelerated and resulted in savings in fiscal 1985 alone that exceeded the equipment investment.

Substantial effort was directed toward consolidation of headquarters offices from four satellite buildings to a single building. Extensive negotiations were conducted to obtain funding, secure suitable space, and coordinate the technical aspects of the move such as those related to telecommunication improvements, physical layouts of office space, etc. As part of the consolidation project, a major procurement was initiatedSubstanti6 2.04

ing for interested staff, development of data to reflect trends and patterns in employment practices, and provisions for more frequent performance feedback to staff.

Part II (Investigative Stage)
CONSENT AGREEMENTS ACCEPTED

reports used as the basis for denying credit, as required by the Fair Credit Reporting Act (FCRA). In addition to requiring future compliance with the FCRA, the agreement requires the company to provide proper FCRA notices to consumers who were denied credit based on nonderogatory information after September 1, 1983. Nonderogatory information may be information indicating that the consumer either has no credit file or an insufficient credit file, but does not indicate bad credit.

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PART II (Investigative Stage)

order: Gulf's Cedar Bayou, Texas, polypropylene plant and related assets were divested to Amoco Chemicals Co., a subsidiary of Standard Oil Co.(Indiana), the Alliance, Louisiana, refinery and Gulf's related southeast marketing assets acquired by Standard Oil Company(SOHIO). Gulf's interest in the Colonial pipeline was sold to the Union Oil Company of California; and the co-owners of the West Texas Gulf's pipeline purchased Gulf's 51 percent interest. The hold separate agreement was terminated upon completion of the Colonial Pipeline sale. The complaint issued with the consent charged that Chevron's acquisition of Gulf would lesson competition in (1) the transportation of light petroleum products, such as gasoline, from refineries in the Southeastern United States; (2) refining and distributing of gasoline in specified areas; (3) the transportation of crude oil from producing fields in western Texas and eastern New Mexico to refineries; and (4) the production and transportation of kerosene and jet fuel in the East Coast and Gulf Coast areas.

Decorating Products Association of Central Florida

The Decorating Products of Central Florida, an affiliate of the National Decorating Products Association, agreed not to conspire with its members to restrict competition in the sale and distribution of wallcoverings. Members of DPACF operate retail decorating products stores where wallcoverings are sold. According to the complaint, DPACF discouraged suppliers from distributing wallcoverings in competition with its members by refusing to deal with suppliers that sold wallcoverings directly to building contractors. For purposes of the complaint, the term wallcovering did not include paint or paneling, but did include such flexible materials as wallpaper, vinyl, or foil. The complaint alleged that the trade association deprived consumers of the benefits of competition by encouraging its members to refuse to promote or take customer orders for products of a supplier 2.4 0 -17 Tc (did) 0.0174 2.64 0 TD 0.uTj 52.8

Hawaii Dental Service Corporation

The Hawaii Dental Service Corporation agreed not to base its decision on whether to send dentists to certain counties in the state on the approval of member-dentists already practicing in those counties. Hawaii Dental, headquartered in Honolulu and representing approximately 82 percent of the dentists in Hawaii, offers a dental insurance program that provides dental services for a prepaid premium. More than half of the Hawaiians with dental insurance belong to Hawaii Dental. Under a provision in Hawaii Dental's bylaws, the group was prohibited from recruiting and sending dentists to the island counties of Maui, Kauai, and Hawaii without the approval of the majority of its member-dentists already practicing in those counties. The complaint alleged that the provision gave members in the three counties the power to exclude competition and deprived consumers of the benefits of competition among dentists. The complaint further alleged that members and potential members of Hawaii Dental have probably been deterred from establishing practices in the three counties. Under terms of the consent agreement, Hawaii Dental is required to remove any provision in its bylaws that restricts the free recruitment of dentists to counties of Maui, Kauai, and Hawaii and must publish a notice of its removal in two publications circulated to dentists. The group also agreed not to deny membership to a dentist licensed by the state based on other members' opposition to sition to scawn otnD 0.03val

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substantially reduced competition in the psychiatric hospital services market in the Norfolk area and in the general acute care services in the Midland, Texas area. Under terms of the consent, HCA agreed to divest the two psychiatric hospitals in Norfolk and Portsmouth and the Parkview Hospital in Midland. HCA also agreed to divest its interest in the planned new hospital in Midland intended to replace Parkview. In addition, for a period of ten years, HCA is prohibited from reacquiring the assets of any of the divested hospitals without prior Commission approval.

InterNorth, Inc.

The Commission accepted a consent agreement resolving antitrust charges stemming from InterNorth, Inc.'s \$2.3 billion acquisition of Houston Natural Gas Corporation after InterNorth agreed to divest four natural gas pipelines. InterNorth and Houston Natural were each engaged in the exploration for and production of oil and gas. InterNorth owns a pipeline system considered to be the largest natural gas pipeline system in the United States. Houston Natural, which had been an intrastate pipeline company, entered the interstate pipeline business with the 1984 acquisitions of Florida Gas Transmission Co. and Transwestern Pipe Line Co. The complaint alleged that the acquisition would lessen competition among pipeline companies that purchase and transport gas out of the Permian Basin in West Texas and Southeastern New Mexico, and out of the Anadarko Basin in the Texas-Oklahoma Panhandle. According to the complaint, competition would also be lessened between competitors in the transportation and sale of natural gas in the highly concentrated Texas Gulf Coast area. The acquisition would result in InterNorth becoming the largest natural gas transportation system, measured by assets, in the United States. Under terms of the consent agreement, InterNorth agreed to divest: (1) the Oasis Pipeline and the Trans Texas Pipeline, both running from the Permian Basin to New Braunfel, Texas, and servicing the Texas

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tion, the order restricts InterNorth's participation in joint ventures or other agreements involving the purchasing, gathering, transportation or marketing of natural gas in the Texas Gulf Coast area.

Medical Staff of John C. Lincoln Hospital & Health Center

Approximately 750 physicians and other practitioners of an acute care hospital in Phoenix agreed not to engage in boycotts to impede the development or operation of an urgent care center or other health-care facility in the Arizona counties of Maricopa, Pinal, Yavapai, or Gila. The complaint issued with the consent agreement alleged that the medical staff of John C. Lincoln Hospital & Health Center conspired to intimidate the Board of Directors of Lincoln Hospital, by threatening to transfer their patients to other hospitals, in an attempt to force Lincoln Hospital to cancel plans to operate an urgent care center approximately three miles away. The urgent care center was designed to provide treatment to patients with urgent, but not life threatening, conditions without the need for an appointment. The Medical Staff, according to the complaint, urged its member-physicians not to support the urgent care center believing the facility would draw patients away from their private practices. Under the consent agreement, the Medical Staff is prohibited from threatening or participating in any unreasonable discriminatory action against a health-care facility. The consent, however, does not prohibit the Medical Staff or its members from engaging in any peer review or hospital policymaking activities at Lincoln Hospital if such participation does not constitute, and is not part of, a boycott or refusal to deal.

Multiple Listing Service of the Greater Michigan City Area, Inc.

Under terms of a revised consent agreement, the Multiple Listing Service of the Greater Michigan City Area, Inc. ()

With Multiple Listing Service of the Greater Michigan City Area, Inc. () Tj 20.4 0 oif-Sfn() Tj 156 -12.96 d005aTD 0.020 TD

pie listing

Sun Refining and Marketing Company

Sun Refining and Marketing Company agreed to honor lifetime warranty obligations for automobile batteries it sold with such a warranty. The company also agreed to contact eligible consumers and make them aware of the reinstatement of the lifetime warranty.

Trans-Continental Industries (TCI)

Trans-Continental Industries (TCI), and John Treadwell, doing business as TCI, a Marketing Treadwell,

Young & Rubicam/Zemp, Inc.

Young & Rubicam/Zemp, Inc. agreed not to misrepresent the ability of the Ecologizer CA/90 Series 2000 Air Treatment System or any other air cleaning appliance or equipment to remove formaldehyde gas or tobacco smoke from household air. The company also agreed to have a reasonable basis, consisting of competent and reliable evidence, to substantiate any future performance claims in the sale or promotion of any household air cleaners. Young & Rubicam/Zemp, Inc. is the advertising agency which created and disseminated the Ecologizer ads for the manufacturer, Rush-Hampton Industries, Inc.

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PRELIMINARY AND PERMANENT INJUNCTIONS

COMPETITION MISSION

Baker International Company

The Commission authorized its staff to file a preliminary injunction to

in the market for chemical disinfectant solutions for soft contact lenses. The transaction was abandoned before papers were filed in district court.

CONSUMER PROTECTION MISSION

Arthur F. Furman

A federal district court issued a permanent injunction against Arthur F. Furman, sellers of hair analysis services and vitamins, minerals, and other dietary supplements. The injunction prohibits the defendants from misrepresenting to consumers their ability, based on a hair analysis, to accurately measure the element content of a person's body or to recommend dietary supplements to correct chemical excesses and deficiencies. The defendant, Arthur Furman, also was enjoined from using titles implying that he has a medical degree.

Certified Security Systems

The Commission filed a complaint seeking preliminary and permanent injunction actions and consumer redress against four individuals for alleged violations of the FTC Act in the sale of business opportunities. The defendants, Michael Kaplan, Jerome Kaplan, Robert MacKenzie Davis, Jr., and Richard Wiley have employed a series of corporations to sell distributorships for high-tech products such as energy savings

vide franchisees. The court issued a temporary restraining order that prohibits the company from misrepresenting the earning potential of its franchises, making any false or deceptive claims in connection with the sale of the franchises, or further violating the Franchise Rule. The court also froze the company's assets.

Del Monte Corporation

The Commission filed a complaint seeking civil penalties and a permanent injunction against the Del Monte Corporation for

to pay \$700,000 into a consumer redress fund and enjoining them from making future misrepresentations concerning the likelihood of obtaining valuable oil and gas leases. J & R provided filing and advisory services to clients participating in lotteries the Department of the Interior conducted for oil and gas rights on federal land parcels. The agreement is subject to the approval of the Bankruptcy Court because J & R has filed for reorganization under Chapter 11. However, the company's officers will remain personally liable for the agreement's redress provisions regardless of the court's decision on J & R.

William D. Jones d/b/a Liquid Assets

The Commission filed a complaint seeking a permanent injunction and consumer redress against William D. Jones, doing business as Liquid Assets. The Commission alleges that advertising claims that a mouthwash, Breath Fresh 502, will sober people who have consumed large amounts of alcohol and will allow them to pass breath analyzer tests are false and deceptive, liable for the agreement's redress provisions regardless

ity. The Commission had charged that Kitco misrepresented both the amount of profit that could be earned and the services the company would provide to purchasers of their

Phillipe LaFrance/USA, Ltd.

The Commis9he

Unnamed Providers of Adoption Services

The Commission filed a complaint in federal district court seeking a permanent injunction and consumer redress against three individuals, Rebecca L. Kelley, Debbie Tanner, and Bryan M. Hall, who allegedly falsely claimed they could help couples adopt children from Mexico. The complaint charges that the defendants misrepresented the status of "pending" adoptions and the procedures they would follow, such

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Act to file notification and observe the waiting period requirements before acquiring more than \$15 million of Asarco stock. In addition, the complaint charged that Weeks Petroleum's acquisitions were not made solely for the purpose of investment and did not qualify for the ten percent exemptions under the Act. According to the complaint, Weeks Petroleum acquired the stock at the direction of Bell Resources and its chairman of the board, M.R.H. Holmes a Court. Bell Resources is based in Melbourne, Australia; Holmes a Court is an Australian citizen. The complaint seeks maximum civil penalties and an injunction prohibiting future violations of the premerger reporting requirements under the HSR Act.

CONSUMER PROTECTION MISSION

Allied Finance Company

Allied Finance Company agreed to a \$125,000 civil penalty consent decree to settle charges it discriminated against elderly credit applicants on the basis of their age and reliance on retirement income in violation of the Equal Credit Opportunity Act (ECOA). The company also allegedly violated the ECOA by requiring married people applying for individual credit to have their spouses sign loans, and by requesting information on the marital status of consumers applying for individual, unsecured credit in certain states. Allied Finance also allegedly violated the Fair Credit Reporting Act by failing to inform consumers who were denied credit based on information received from a credit reporting agency of that fact. In addition, the company allegedly did not provide such consumers with the agency's name and address, as required by the FCRA. Under the consent decree, the consumer loan company agreed not to discriminate against the elderly, to comply with federal credit laws, and to provide all applicants it rejected last year with the notices these laws require.

Enamelcraft, Inc.

Enamelcraft, Inc., its two wholly-owned-subsidiaries, and the president of the three companies agreed to a \$15,000 civil penalty consent judgment for allegedly misrepresenting the services and merchandise they offered, and violating the FTC's Franchise Rule. The alleged violations of this franchiser of women's clothing and enamel jewelry and giftware included: misrepresenting the minimum annual earnings of franchisees; misrepresenting the quality of the goods offered; and falsely claiming that retail locations would be found, training would be provided, unsold merchandise would be bought back at the original price, and that the first year's profit was guaranteed.

order prohibits certain claims about rent-a-car mileage rates. The consent decree rejoins Grossman from violating the order or going back into the rental car business without first notifying the Commission.

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tion in the natural gas markets in the offshore area of the Gulf of Mexico and in the Baton Rouge- New Orleans corridor. According to the complaint, the acquisition may tend to create a monopoly in the transportation of natural gas out of producing fields in the Gulf of Mexico off the State of Louisiana since both MidCon and United Resources are competing owners or part-owners of several natural gas pipeline systems serving the Gulf and other areas in the United States. The acquisition, if consummated, could result in MidCon becoming the third largest natural gas transportation company in the U.S. If the Commission finds that the acquisition violated the antitrust laws, MidCon may be required to divest some of its offshore pipeline interests or other appropriate relief may be pursued. In a related action, the Commission accepted a proposed consent agreement with MidCon resolving the FTC's concerns in the sale of natural gas in the area between Baton Rouge and New Orleans.

National Decorating Products Association, Inc.

The Commission issued a complaint alleging that a national wall covering trade association and two of its affiliates engaged in a conspiracy in an attempt to stabilize wall covering prices at both the supplier and consumer levels. Named in the complaint were the National Decorating Products Association, Inc. (NDPA), the national association representing over 7,000 operators of retail businesses engaged in the promotion and sale of wall coverings; the Eastern Decorating Products Association, the New England/Middle Atlantic states NDPA affiliate; and the Decorating Products Dealers Association of Greater New York, Inc., NDPA's local affiliate. The complaint charged that the trade associations illegally conspired with their members to suppress

substantially lessen competition in the manufacture and sale of chlorinated isocyanurate and calcium hypochlorite dry swimming pool sanitizers. Under a separate agreement accompanying the complaint, the Commission allowed Olin to consummate the acquisition and Olin agreed to maintain or improve the production capabilities of the acquired isocyanurate assets, allowing the Commission the opportunity to complete its administrative proceedings while preserving the Commission's ability to obtain effective divestiture or other appropriate relief that might be found necessary. In addition, under the separate agreement, Olin terminated a 1984 agreement with Monsanto Company under which Monsanto provided Olin with chlorinated isocyanurates for resale. The separate agreement will remain in effect until the Commission issues its final order.

Rochester, N. Y. Anesthesiologists

The Commission charged that 35 anesthesiologists engaged in a price fixing conspiracy in an attempt to raise their fees and restrain competition by participating in a group boycott against Blue Shield. The complaint alleged that in 1980 anesthesiologists who have practiced at the three largest hospitals in the Rochester, N.Y., area threatened to withdraw from Blue Shield if the insurance company did not meet their demands for higher payments. When the collective negotiations failed to yield a higher fee schedule, the doctors withdrew from Blue Shield and significantly increased their fees for services rendered to subscribers of Blue Shield, according to the complaint. The complaint further alleged that some anesthesiologists used similar threats in negotiations for higher fees with Preferred Care, a health maintenance organization operating in Rochester. Preferred Care, according to the complaint, met the doctors' demands and paid the higher costs of anesthesia services, but increased the insurance premiums paid by Preferred's subscribers. The Commission's complaint charged that the doctors' conspiracy to obtain higher fees for their services would affect patients through higher premiums, lessen competition among anesthesiologists, and may have limited the ability of health insurance companies to compete in the Rochester area. If the Commission finds that the anesthesiologists violated the law, it could prohibit them from engaging in group negotiations that affect the amount or terms of reimbursement from

substitute, through a distributor network. The complaint also charges Brog with making false claims about the average earnings of distributors by substantially overstating the income they could reasonably expect to earn.

Removatron International Corp.

The Commission's complaint charges Removatron International Corp., the maker of the Removatron brand hair-removal device, with deceptively advertising that the product can permanently remove hair and falsely claiming the device has been approved by the Federal Communications Commission. The complaint alleges the company lacked substantiation for its claims that Removatron treatments remove hair permanently and are an effective alternative to electrolysis.

PART III (Adjudicative Stage)
CONSENT AGREEMENTS ACCEPTED
AND PUBLISHED FOR COMMENT

COMPETITION MISSION

Columbian Enterprises, Inc.

Columbian Enterprises, Inc., agreed to limit its acquisition of firms engaged in the production of carbon black. The consent settled a 1984 complaint which alleged that Columbian's acquisition of the Continental Carbon Co., a subsidiary of Conoco, Inc., could lessen competition by creating the nation's second largest producer of carbon black, a petroleum feedstock used to strengthen natural and synthetic rubber in the manufacture of tires, inner tubes, and other rubber products. Under terms of the agreement; for a period of five years, Columbian is required to obtain prior Commission approval if an acquisition of the stock or assets of a competitor would increase its annual domestic carbon black production capacity by more than 130 million pounds.

MidCon Corp.

MidCon Corp. agreed to sell its interest in the Acadian Gas Pipeline System, which serves markets in Louisiana and Texas, to settle charges that its acquisition of United Energy Resources, Inc. would increase concentration in the transportation and sale of natural gas in the Baton Rouge-New Orleans corridor of Louisiana. According to the complaint, MidCon and United Resources are competitors; MidCon, through its 50 percent interest in the Acadian system, transports natural gas to users in the Baton Rouge-New Orleans corridor; United Resources owns an extensive gas transmission system serving the same area. In addition to the required divestiture, the order would prohibit MidCon from acquiring, without prior Commission approval, any interest in additional pipelines that sell a substantial volume of natural gas in the Baton Rouge area for a period of ten years.

Oklahoma Optometric Association

The 300 member Oklahoma Optometric Association agreed to allow its members to operate franchises and branch offices and

of optometric services, optical goods and services. The association represents the interests of approximately 90 percent of the practicing optometrists in Oklahoma. Optometrists provide eye examinations and diagnosis of eye conditions, including prescribing corrective lenses, contact lenses, and eyeglasses. The complaint, issued in March, alleged that the association prohibited its members from selling optical goods through retail optical stores and branch offices and suspended members who engaged in a franchise arrangement, declaring such practices as unethical. According to the complaint, the association adopted rules that prohibited members from establishing a practice close to a retail optical store, affiliating their name with a franchised operation, operating a separate or branch office, and promoting their skills, training, or care through the use of truthful advertising. The association agreed not to interfere with its members' participation in franchises for the sale of optical goods and devices, establishing branch offices, or using truthful comparative advertising about optometric services and skills.

CONSUMER PROTECTION MISSION

Weider Health and Fitness, Inc.

Weider Health and Fitness, Inc. and Joseph Weider agreed to pay a minimum of \$400,000 in refunds to consumers and research grants to settle charges that they misrepresented two nutrient supplements. Weider also agreed not to falsely claim that the supplements, "Anabolic Mega-Pak" and "Dynamic Life Essence," are effective substitutes for anabolic steroids or help build muscles. If refunds to purchasers of these products total less than \$400,000, Weider is required to donate the difference to fund research on the relationship of nutrition to muscle development.

PART III (Adjudicative State)
CONSENT AGREEMENTS ISSUED IN FINAL FORM

COMPETITION MISSION

Louisiana State Board of Dentistry

The Louisiana State Board of Dentistry agreed not to prohibit dentists from advertising or offering discounts for dental services. The board, based in New Orleans, is licensed by the state and is authorized by the state to take disciplinary action against any dentist who engages in unprofessional conduct as defined by Louisiana statute. The Commission charged that the board restrained competition among dentists in the state by prohibiting truthful advertising of discounts and intimidating dentists who advertised such discounts. According to the complaint, the board forced a group of dentists to stop advertising their "Back to School Special," which offered cleaning, examination, fluoride treatment, and X-rays for a specified price. In another instance cited in the complaint, the board allegedly imposed a fine and publicly reprimanded one dentist, who advertised a discounted price, on grounds that c () Tj 1.80 04 -12.96 a360

Dr. Barry Bricklin

The agreement prohibits Dr. Barry Bricklin, an expert in the psychology of dieting, from providing false or misleading endorsements for diet plans marketed by Buckingham Productions. Dr. Bricklin agreed not to represent that consumers can eat as much food as they want and still lose weight without giving specified disclosures about weight reduction. Dr. Bricklin is also prohibited from making claims about "usual" or "average" weight loss, or about the efficacy or performance of weight control products or programs, unless he relies on competent and reliable substantiation. The agreement with Dr. Bricklin is the Commission's first expert-endorser case where the endorser was not a celebrity and was not a principal in the company. It therefore sets a precedent for expert endorsers and advertisers who use expert endorsers.

P. Leiner Nutritional Products Corp.

The agreement prohibits P. Leiner Nutritional Products Corp. from claiming that its nutritional supplement "Octacol 4" can improve physical fitness or athletic performance unless it has reliable and competent data to back up such claims. Under the agreement, the company cannot claim that any ingredient in "Octacol 4" improves a person's endurance, stamina, vigor, overall athletic performance, or physical fitness. The company also agreed not to misrepresent the conclusions, data, or results of scientific tests or research in its advertisements.

Porter Realty, Inc.

The agreement prohibits Porter Realty, Inc., a real-estate brokerage company, and Irvin Porter, an officer of the firm, from misrepresenting the value and potential use of land. The agreement also requires the company to disclose material facts about the land in its sales and promotional activities. The consent agreement settles charges that Porter Realty, Inc., along with three Texas land-sales companies, made false and deceptive claims in selling rural, undeveloped land in west Texas. In January 1985 the Commission issued a final decision and order prohibiting the land-sales companies from making claims similar to those covered by the Porter agreement.

Rush-Hampton Industries, Inc.

The agreement prohibits Rush-Hampton Industries, Inc. from misrepresenting the performance capabilities of the Ecologizer CA/90 Series 2000 Air Treatment System, a portable household indoor air

cleaning device developed for air contaminant problems. The consent order prohibits the company from representing that the Ecologizer removes formaldehyde gas, tobacco smoke, household dust, or pollen from household air. The company agreed to have a reasonable basis, consisting of competent and reliable evidence, substantiating any future performance claims for the Ecologizer Series 2000 or any other air cleaning appliance or equipment.

Ward Corporation

The agreement requires Ward Corporation, a major Washington, D.C. area home builder, to make repairs or pay homeowners for valid new home construction defects that cost \$500 or more to fix and are covered by its written warranty. The company and its president, Richard E. Ward, agreed to offer consumer redress to persons who bought their homes between March 1978 and early 1984 and still own the homes. The company is required to set up an arbitration mechanism for future home buyers, provide arbitration to homeowners who had purchased their homes in the year preceding the effective date of the order, and is prohibited from misrepresenting its warranty obligations.

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Hospital Corp. of America

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FINAL COMMISSION ORDERS

COMPETITION MISSION

B.A.T. Industries, Ltd.

The Commission upheld a 1983 Administrative Law Judge's decision that dismissed charges challenging B.A.T. Industries, Ltd.'s acquisition of the Appleton Papers Division of NCR Corp. The complaint had alleged that B.A.T.'s 1978 acquisition of the largest producer of carbonless paper in the United States would lessen competition or tend to create a monopoly in the manufacture and sale of chemical carbonless paper in the U.S. At the time of the acquisition, B.A.T. did not manufacture or market paper in the U.S., but was the largest producer in the United Kingdom and Europe. The Commission affirmed dismissal on grounds that there was insufficient evidence and no clear proof to show that B.A.T. would have independently entered the U.S. chemical carbonless paper market, in the near future, without the acquisition of Appleton.

City of New Orleans, The
City of Minneapolis, The

The Commission withdrew the two separate complaints issued last year that charged both the City of New Orleans and the City of Minneapolis with eliminating competition in taxicab service by entering into contracts or agreements to increase fares and limit the number of taxicab licenses or operators in each respective city. The Commission withdrew its complaint against New Orleans after the State of Louisiana adopted a statute that has the effect of exempting municipalities or their officers from any liabilities under the federal antitrust laws for such activities. The complaint against Minneapolis was withdrawn after the city amended its code to raise the number of taxicab licenses granted yearly to operators. The Commission concluded that this increase would prevent the anticompetitive conduct alleged in the complaint by lowering barriers to entry in the Minneapolis taxicab industry.

Echlin, Inc.

The Commission upheld the 1984 decision of an Administrative Law Judge that found Echlin, Inc.'s (formerly Echlin Manufacturing Co.) acquisition of the automotive-aftermarket operations of Borg-Warner Corp. did not violate the antitrust laws. The 1981 complaint alleged that the acquisition could substantially lessen competition in the assembly and sale of carburetor kits. Carburetor kits, used mainly by

professional mechanics, are prepackaged sets of the most frequently used parts needed to repair carburetors that do not require complete replacement. The Commission affirmed dismissal on grounds that there were no barriers to entry in the market since a new entrant could become an assembler of the kits in less than one year. The Commission ruled that in the absence of barriers to entry, firms cannot exercise market power regardless of the concentration in the market.

Kaiser Aluminum & Chemical Corporation

The Commission dismissed a 1976 complaint that alleged that Kaiser Aluminum & Chemical Corporation's acquisition of two basic refractories plants from the Lavino Division of International Mineral & Chemical Corporation lessened competition in the industry. In 1981, the court of appeals vacated the Commission's 1979

plaint, issued in 1981, charged that Weyerhaeuser's acquisition of Menasha Corporation's North Bend, Oregon, corrugating-medium mill would substantially lessen competition in the eleven-state region west of the Rocky Mountains. The Commission examined the effects of the acquisition on the West Coast region and found that because of low barriers to entry the acquisition did not threaten competition in the corrugating-medium market. The Commission determined that if prices in the Western region increased substantially, firms in the Eastern United States would enter the area and existing firms would increase production, thus defeating any possible attempts to control the market.

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Thompson Medical Company, Inc.

The Commission upheld the Administrative Law Judge's decision and ordered that Thompson Medical Company not represent to consumers that aspirin is an active ingredient of its "Aspercreme" arthritis rub, and must clearly disclose that the product does not contain aspirin. In addition, the company may not represent that any over-the-counter drug product involves a new scientific principle when such a product, or one with the same principle, has been available for purchase in the United States for more than one year. The company also is prohibited from misrepresenting any test or study, or misrepresenting the active

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ORDER MODIFICATIONS

COMPETITION MISSION

American Academy of Orthopaedic Surgeons
American College of Radiology

The American Academy of Orthopaedic Surgeons (AAOS) and the American College of Radiology (ACOR) separately petitioned the Commission to modify their respective consent agreements, which settled charges that both groups developed and circulated relative value scales that had the effect of influencing and fixing fees for services in their respective medical professions. Relative value scales are lists of medical services that provide comparative numerical values for services in non-monetary terms. The Commission modified the 1976 order issued to AAOS and the 1977 order issued to ACOR to allow both groups to participate in discussions concerning other organizations' development of new or alternative types of health care financing, including those using relative value scales.

BATUS, Inc.

The Commission modified a 1982 order with BATUS, Inc., accepting as full compliance BATUS' divestiture of two Gimbel Brothers Inc. department stores. The order settled charges that "BATUS" acquisition of Marshall Field & Co. could reduce competition among department stores in the Milwaukee area. The order required BATUS to reduce Milwaukee-area department store space by at least 200,000 square feet and its sales by at least \$20 million, measured by 1981 sales. The two Gimbel stores had a combined floor space of 492,000 square feet and 1981 sales of \$17.93 million. The modified order allows BATUS to keep its remaining stores in the Milwaukee area without further divestitures.

California Medical Association

The Commission granted in part, and denied in part, the California Medical Association's request to delete a provision in a 1979 order that prohibited the association from developing, circulating, or entering into discussions concerning any relative value study developed by third parties. The Commission modified the order to allow the group to participate in discussions with government agencies and third-party payors about health care

CONSUMER PROTECTION MISSION

American Motors Corporation

The Commission set aside a consent order against American Motors Corp. and Jeep Corp. that required safety-warning stickers on Jeep CJ utility vehicles. The Commission noted that the National Highway Transportation Safety Administration (NHTSA) now requires similar warning stickers on all utility vehicles. AMC and Jeep pointed out in their petition to set aside the order that without the change they would have to comply with both the FTC order and the NHTSA regulation, each of which requires different language on the warning stickers and in the owner's manuals.

Grolier, Inc.

The Commission modified an order requiring Grolier, Inc., et al. to make certain disclosures in its sales and employment ads, and prohibiting it from making certain misrepresentations to potential employees and consumers. The modifications concern changes in the wording and presentation required in advertisements and sales material, and the timing of required disclosures to prospective employees. The changes reflect terms similar to those in an order modification granted Encyclopaedia Britannica in October 1982.

APPELLATE COURT REVIEW
OF COMMISSION ORDERS
AND TRADE REGULATION RULES

American Financial Services Association

Petition for review of Commission trade regulation rule. On July 12, 1985, the United States Court of Appeals for the District of Columbia Circuit issued its decision in this matter, denying a petition for review of the Commission's Trade Regulation Rule on Credit Practices.

Amrep Corp.

Petition for review of a Commission order prohibiting deceptive land sales practices. On July 25, 1985, the

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Massachusetts Furniture & Piano Movers Association, Inc.

Petition for review of Commission order. On September 30, 1985, the United States Court of Appeals for the First Circuit reversed in part, vacated in part, and remanded for further proceedings the Commission's order that prohibits joint rate setting activities.

SUPREME COURT REVIEW

Bristol Myers Corp.

Petition for review of a Commission order prohibiting deceptive practices in analgesics advertising. On January 21, 1985, the Supreme Court denied Bristol Myers Corp.'s petition for certiorari to review a decision of the United States Court of Appeals for the Second Circuit, upholding the Commission's decision in its entirety.

Harry & Bryant Co.

Petition for review of Commission trade regulation rule. On October 2, 1984, the Supreme Court denied Harry & Bryant Co.'s petition for certiorari to review a decision of the United States Court of Appeals for the Fourth Circuit, affirming in its entirety the Commission's Trade Regulation Rule on Funeral Industry Practices.

Sterling Drug Co.

Petition for review of order to cease and desist. On March 29, 1985, the Supreme Court denied Sterling Drug Co.'s petition for certiorari to review a decision of the United States Court of Appeals for the Ninth Circuit, affirming and enforcing a Commission order to cease and desist deceptive advertising for analgesic products.

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ECONOMIC REPORTS COMPLETED

Economic Reports are major published reports, usually entailing a substantial commitment of resources and original research, concerning a matter or issue of topical interest or of long term impact on Federal Trade Commission action in a particular area of concern.

"Aggregated Costs to the United States of Tariffs and Quotas on Imports: General Tariff Cuts and Removal of Quotas on Automobiles, Steel, Sugar, and Textiles, " by David G. Tarr and Morris E. Morkre, December 1984. This report assesses the losses to U.S. consumers and producers from tariffs and quotas in four U.S. industries and estimates the total losses from the trade restrictions in these industries to be nearly \$13 billion annually.

"A Time-Series Investigation into Factors Influencing U.S. Auto Assembly Employment," by Michael C. Munger, February 1985. This report provides an analysis of the recent rise in unemployment in the automobile industry. The report finds that the 1980-82 recession and high wages paid U.S. auto workers are largely responsible for the unemployment rise and that the U.S. import of automobiles is not a major factor.

"Generic Substitution and Prescription Drug Prices: Economic Effects of State Drug Product Selection Laws," by Allison Masson and Robert L. Steiner, September 1985. This report provides an analysis of the effects of state drug product selection laws and the growth of generic drugs. The report examines earlier recommendations in the FTC/FDA model statute.

"U.S. Federal Trade Commission, Bureau of Economics, Annual Line of Business Report 1977: A Statistical Report," September 1985. This report is the last in a series of five Annual Line of Business Reports to be published by the Commission for the years 1973-1977. The report contains industry aggregates and financial ratios compiled from line of business financial data submitted by approximately 470 large diversified U.S. manufacturing companies.

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ECONOMIC WORKING PAPERS

Economic Working Papers are preliminary, published work products of the Bureau of Economics, resulting from original research by Bureau staff either in connection with ongoing agency activities or independent analyses. The papers usually entail relatively minor allocations of official time.

Application of the Sherman Act, The: to the Smog and Aircraft Patent Agreements, George Bittlingmayer, February 1985.

Cooperation Versus Rivalry: Price-Cost Margins by Line of Business, John E. Kwoka and David Ravenscraft, June 1985.

Determinants of the Merger Accounting Choice, David Ravenscraft and F.M. Scherer, February 1985.

Enforcing Government Policy: The Evolution of Efficient Regulations, Mark A. Cohen and Paul H. Rubin, November 1985.

Equilibria in the Laboratory: Experiments with Oligopoly. Markets Where Goods are Made to Order, Dan Alger, December 1984.

Factors Affecting Steel Employment Besides Steel Imports, Douglas W. Web-bink, July 1985.

Geographic Market Definition Under the DOJ Guidelines, David T. Scheffman and Pablo T. Spiller, August 1985.

Incentives to Comply with Uncertain Legal Standards, John C. Calfee and Richard Craswell, April 1985.

Marketable Landing Rights and Economic Efficiency, Donald W. Koran and Jonathan D. Ogur, April 1985.

Mergers, Market Power, and Property Rights: When Will, Efficiencies Prevent Price Increases? Alan A. Fisher, Frederick I. Johnson, and Robert H. Lande, September 1985.

Specialized Assets and Taxi Regulation: An Inquiry into the Possible Efficiency Motivation of Regulation, Edward C. Gallick and David E. Sisk, October 1984.

Tips and Commissions: A Study in Economic Contracting, David E. Sisk and Edward C. Gallick, May 1985.

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MISCELLANEOUS ECONOMIC POLICY PAPERS

Miscellaneous Economic Study papers are papers that result from basic research and generally entail small amounts of agency resources. These papers may be prepared by FTC economists or by outside individuals who have been granted access to economic data compiled by the FTC. The papers usually explore well-defined industrial organization and management strategy questions of interest to the broad policy concerns of the Commission.

A Model of Differentiated Oligopoly: Some Empirical Results, Ioannis Vessides, October 1984.

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COMPETITION AND CONSUMER ADVOCACY

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FCC

Staff comments to the Federal Communications Commission on its proposed rulemaking concerning the construction and operation of satellite systems providing international communication services.

Staff comments to the Federal Communications Commission on its proposal to allocate the radio frequency spectrum remaining in the 800-900 Megahertz "reserve pool." The comments support the FCC's "Alternative Regulatory Approach" of allocating licenses for blocks of frequencies by lottery and permitting lottery winners to resell their licenses.

FDA

Staff comments to the Food and Drug Administration on its proposal to change its "exclusivity" policy for the labeling of over-the-counter drug products.

Staff comments to the Food and Drug Administration suggesting the need for modification of its proposal to facilitate distribution of bulk new animal drug substances.

FERC

Staff comments to Federal Energy Regulatory Commission in its proceeding on Interstate Transportation of Gas for Nonowner Shippers and Rate Structures and Design. The comments discuss the removal of regulatory entry barriers in the gas pipeline industry and the modification of rate regulation to facilitate competition.

Staff comments in response to the Federal Energy Regulatory Commission's Notice of Proposed Rulemaking regarding the regulation of natural gas pipelines after partial wellhead decontrol. The comments generally supported FERC's proposal to increase reliance on competitive forces, instead of regulation, in the gas purchase segments of the industry.

FRB

Commission comments to the Federal Reserve Board on its proposed revision of Regulation B, its regulation implementing the Equal Credit Opportunity Act (ECOA).

Commission comments to the Federal Reserve Board on its proposed amendments to Regulation Z, which implements the Truth-in-Lending

Act. The amendments would require lenders to provide more information about adjustable rate mortgages.

ICC

Staff comments to the Interstate Commerce Commission on its reconsideration of its decision to exempt joint rates for boxcar service from regulation.

ITC

Commission letter to the International Trade Commission requesting permission to appear in a Section 201 (escape clause) case involving the Carus Chemical Company, which petitioned for relief against imports of potassium permanganate.

Commission preheating brief to the International Trade Commission on the escape clause petition for potassium permanganate. The brief recommended that the ITC consider the decision of the petitioner's largest customer to stop using the chemical as a more important cause of injury than an increase in imports. The brief also suggested that the ITC evaluate whether the import injury suffered has been remedied by other recently imposed import restrictions.

Commission preheating relief brief to the International Trade Commission on the nonrubber footwear escape clause investigation. The brief argues that if the ITC finds injury resulting from rising imports, then it should recommend adjustment assistance to firms and workers instead of tariffs or quotas.

SEC

Staff comments to the Security and Exchange Commission addressing proposed rules relating to third party tender offers and tender offers by issuers. Staff comments supported the proposed amendments to prohibit exclusionary tender offers and suggested the SEC shorten the waiting periods applicable

was written in response to the USTR's request for comments relevant to negotiations on the Multifiber Arrangement.

Commission brief to the U.S. Trade Representative regarding the Section 201 investigation on imports of nonrubber footwear. The brief commented on, and provided estimates of the cost to consumers and the economy, of both the import restriction program recommended by the International Trade

Commission comments to the Subcommittee on Business, Trade, and Tourism of the Senate Committee on Commerce, Science, and Transportation. The comments oppose passage S. 700, the "Office Products User Protection Act" and S. 701, the "Office Machine and Equipment Dealers' Equity Act," bills which seek to protect office product dealers from being cut off or terminated by their suppliers.

Commission letter to the Senate Committee on the judiciary opposing S. 236, the "Unfair Foreign Competition Act of 1985." The letter cautioned that the proposed bill, which would amend both the Anti-dumping Act of 1916 and the Clayton Act, could encourage the formation of cartels, stimulate other anticompetitive behavior, and produce confusion in the application of the Clayton Act as well as in the operation of the antidumping and countervailing duty laws.

Commission answers to questions from Senator Thurmond and Senator I'm concerning the Malt Beverage Interbrand Competition Act. The Senators' questions were in response to Commission testimony delivered by Walter T. Winslow before the Senate Committee on the Judiciary on May 14, 1985.

Commission comments to the Senate Commission on the Judiciary on S.397, the "Foreign Trade Antitrust Improvements Act of 1985," a bill to amend the Sherman and Clayton Acts to modify the application of such Acts to international commerce.

Commission comments to the Senate Commission on the Judiciary in opposition to S. 1140, the "Motor Fuel Sales Competition Improvements Act of 1985." The proposed bill would amend the antitrust laws "in order to preserve and promote wholesale and retail competition in retail gasoline markets and to protect the motoring safety of the American public."

Commission comments to the Senate Commission on the Judiciary in opposition to S.1299, the "Domestic Petroleum Company Acquisition Act of 1985." The proposed bill is intended "to prevent certain acquisitions of domestic petroleum companies by major international energy concerns."

Commission comments to the Senate Commission on Banking, Housing, and Urban Affairs on S. 951, a bill that would classify an attorney collecting a debt as a debt collector.

STATES

Alaska

Staff letter to the Anchorage Assembly concerning a proposal to issue more taxicab permits in the City of Anchorage. The staff letter supported the proposal, noting that in entry in the taxicab business, consistent with maintenance of safe and competent service, would benefit Anchorage residents and visitors.

California

Staff testimony before the San Francisco Police Commission concerning issuance of additional taxicab medallions in the city of San Francisco. The staff testimony delivered by Jeffrey Klurfeld, Assistant Director of the San Francisco Regional Office, supported issuance of more taxicab medallions.

Commission amicus briefing the matter of Bahn v. NME Hospital, in support of a private plaintiff who is appealing to the Ninth Circuit from a judgment of the U.S. District Court for the Eastern District of California dismissing his antitrust action. Plaintiff, a certified registered nurse anesthetist in California, alleged in his complaint that defendants sought to eliminate competition in the provision of anesthesia services by excluding nurse anesthetists from the operating rooms of Manteca Hospital.

Commission motion for leave to file an amicus brief in the case of People v. Penta Investment Corp. in California in

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Staff comments to the Illinois State Senate Insurance and License Activities Committee an Senate Bill S. 293, which deals with restrictions on the ownership of funeral homes by nonlicensees and limits sales of preneed funerals.

Maryland

Staff letter to Maryland State Senator Leo Green in response to his letter of December 26, 1984. The letter states that if the State of Maryland believes that state regulation of the funeral industry is merited, then adopting the funeral rule by reference as proposed in the draft legislation is appropriate.

Staff letter to the Maryland Board of Examiners in Optometry commenting on its proposed advertising rules.

Massachusetts

Staff comments presented to the Massachusetts Board of Registration in Medicine opposing proposed restrictions an mid-level health professionals such as physician assistants and nurse practitioners.

Boston Regional Office staff letter to the Massachusetts Board of Registration in Medicine in response to the board's proposed regulations concerning who should receive investigative medical information.

Minnesota

Staff letter to the Minnesota Dentistry Board generally supporting proposed amendments to its rules dealing with advertising.

New Jersey

Staff testimony on the FTC's staff study of contact lens fitting before the New Jersey Senate Labor, Industry, and Professions Committee.

Staff comments to New Jersey Board of Dentistry opposing proposed regulations that severely restrict advertising by dentists.

Staff comments to New Jersey Senate Bill S.2035. This bill would prohibit discrimination against credit applicants who receive income from part-time employment, from pension, annuity, or other retirement benefits, from any public assistance program, or from alimony,

child support, or separate maintenance payments where this income is reliably received.

New York

Commission motion for leave to file an amicus brief in *Indian Head, Inc. v. Allied Tube & Conduit Corp.*, 81 Civ. 6250 (S.D.N.Y.), arguing that Noerr immunity should not apply to a manufacturer's action to influence the standards development process of a private standards-setting organization.

Staff letter to the Office of New York Governor Cuomo opposing New York State AB 6971-A, "Amended Article 30

costs, conflicts with the federal antitrust laws and should be preempted on that basis.

Rhode Island

Staff comments for the Rhode Island Legislature on the proposed "Distilled Spirits and Venous Beverages Fair Dealing Law," a bill setting forth regulations governing agreements between suppliers and wholesalers of distilled spirits and vinous beverages. The comments conclude that the proposed law has the potential to increase consumer prices by encouraging distributional arrangements that increase costs and reduce interbrand competition.

South Carolina

Staff comments to the Chairman of the Labor, Commerce, and Industry Committee of the South Carolina House of Representatives. The comments argue that a South Carolina Bill providing for Motor Fuel Marketing Divorcement and the Prohibition of Certain Below-cost Motor Fuel Sales would injure competition and result in higher prices to consumers.

Tennessee

Staff testimony on the FTC's Funeral Rule before the Tennessee State Senate Committee to Study Future Funeral Contacts and Services. The testimony summarizes the Rule's provisions on price disclosure, misrepresentations, tying arrangements, and embalming.

Texas

Staff comments on a bill that would partially repeal a Texas prohibition on the sale of certain items on both the Saturday and Sunday on the same weekend. Comments urge that ban be repealed for sale of automobiles as well as for other goods.

Virginia

Staff comments to the Virginia Senate Committee on Rehabilitation and Social Services. The comments argue that the proposed Virginia Wine Franchise Act could increase consumer prices by adding costs to the distribution of wine and lessening competition among wine wholesalers.

Staff comments addressing regulatory changes that have been proposed by the Virginia Boards of Dentistry, Medicine, Optometry, and Veterinary Medicine. The major issues included in the comments are restraints on nondeceptive advertising and restrictions on commercial practice.

Washington

Staff comments address issues such as the need for lawyer advertising raised by the Washington Bar Association's proposed "Plan of Legal Specialization," which would establish rules and standards for the certification of attorney specification in the State of Washington.

Washington

Staff analysis of alternative taxicab regulations provided to the Transportation Committee, Seattle City Council. The analysis estimated that the cost of eliminating district fares and fixing all fares at \$1.20 per mile would be \$225,000 per year.

Washington

Staff testimony to the Senate Commerce and Labor Committee of the Washington State Legislature concerning Senate Bill 3333, the "Motorcycle Dealers' Franchise Act." The staff testimony, delivered by Dennis McFeely of the Seattle Regional Office, cautioned that if the bill were enacted, it would result in higher prices for consumers while also inhibiting motorcycle manufacturers from instituting pro-competitive and cost-justified changes in their pricing and distribution systems.

Staff statement to the House and Senate Transportation Committee of the Washington State Legislature on trucking deregulation. Citing the experiences of other states, the testimony argued that trucking deregulation could result in reductions in the rates charged to consumers.

Staff comments to the State of Washington on "An Act relating to Retail Practices in the Sale of Motor Vehicle Fuels." The comments argue that the proposed bill would restrict the ability of gasoline refiners to distribute their product efficiently and would harm both competition and consumers.

LOCAL

District of Columbia

Staff letter to the D.C. City Council's Public Works Committee opposing the "Hacker's License Requirements Act of 1984," (Bill 5-453) a proposed bill to limit the number of licensed taxicab drivers and tighten license requirements.

Staff comments to the D.C. City Council in general support of Bill 6-88, the proposed "District of Columbia Rental Housing Act of 1985," which would extend rent controls for six years in the District but phase out controls on units as they become vacant.

REPORTS & PAPERS

OECD

Staff paper for presentation by Carol T. Crawford, Director of the Bureau of Consumer Protection, (delivered by James McCarty) before the Organization for Economic Cooperation and Development, Committee on Consumer Policy, during the Symposium on Consumer Policy and International Trade. The paper describes the FTC's role in several international trade proceedings.

Bureau of Economics reports on issues related to restrictions of U.S. imports. One report, by David Tarr and Morris Morkre, entitled "Aggregate Costs to the United States of Tariffs and Quotas on Imports: General Tariff Cuts and Removal of Quotas on Automobiles, Steel, Sugar and Textiles," estimates the cost on the U.S. economy caused by import barriers in four major U.S. industries and the adjustment costs that would be incurred if these restrictions were removed. The second report, by Michael Munger, entitled "A Time Series Investigation into Factors Influencing U.S. Auto Assembly Employment," examines the relative importance of different factors that may have contributed to the problems facing the automobile industry.